

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1-44. (Cancelled)

45. (Currently Amended) ~~An apparatus head-end device for use in a hierarchical network,~~  
~~the device comprising:~~

-a classifier connectable to a source of content and operable to place the content into at least one of a plurality of hierarchically modulated simultaneously transmitted data streams which respectively have a different priority assigned to the contents therein corresponding to a particular class of the ~~content~~content wherein at least one of the plurality of hierarchically modulated data streams is configured to have a maximum range greater than at least one other hierarchically modulated data stream that provides an adequate C/N ratio for reception by a terminal.

46. (Currently Amended) ~~An device~~apparatus as claimed in claim 45, wherein a classification of content is made in accordance with a data type of the content.

47. (Currently Amended) ~~An device~~apparatus as claimed in claim 46, wherein the classifier is connectable to a data stream of content in the form of data elements and a splitter is connected to the output of the classifier wherein the classifier identifies the data type of each element of the data streams and inserts a marker into said data streams indicative of a priority assigned to the

element such that the splitter subsequently places each data element, in accordance with the marker, into a corresponding hierarchical transport stream for subsequent transmission by ~~the~~ a network.

48. (Currently Amended) ~~An device~~apparatus as claimed in claim 46, further including a connection to a look-up table accessible in use by the classifier, the table comprising a set of profiles, each profile including at least one definition of a priority for a particular data type wherein a selection by the classifier of a particular profile for identifying the data type of each element is determined by ~~the~~ a network.

49. (Currently Amended) A ~~device~~apparatus as claimed in claim 45, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

50. (Currently Amended) A method ~~of transmitting content in a hierarchical network~~ comprising:

- classifying content received for transmission in a hierarchical network; and
- placing the content into at least one of a plurality of hierarchically modulated simultaneously transmitted data streams which respectively have a different priority assigned to the content corresponding to the classification of the content wherein at least one of the plurality of hierarchically modulated data streams is configured to have a maximum range greater than at

least one other hierarchically modulated data stream that provides an adequate C/N ratio for reception by a terminal.

51. (Currently Amended) A method as claimed in claim 50, ~~including~~ further comprising:  
defining a data stream for a particular classification.

52. (Currently Amended) A method as claimed in claim 51, further comprising:  
~~including~~ \_\_\_\_\_ establishing a set of profiles, each of which includes at least one definition of a data stream for a particular classification wherein a selection of a particular profile is determined by the network.

53. (Previously Presented) A method as claimed in claim 52, wherein the network determines the selection of a profile on a basis of an intended recipient of the content.

54. (Previously Presented) A method as claimed in claim 52, wherein the network determines the selection of a profile on the basis of a service providing said content.

55. (Previously Presented) A method as claimed in claim 52, wherein the network determines the selection of a profile on a basis of network load.

56. (Currently Amended) A system ~~for delivering content over a hierarchical network,~~  
comprising:

~~-a source of content deliverable, to a network; the network including~~having head end equipment operable to place content ~~into at least one of a plurality of selected hierarchically modulated data streams for simultaneous transmission by a transmitter~~ into at least one of a plurality of selected hierarchically modulated data streams for simultaneous transmission which respectively each data stream has a different priority assigned to the content therein wherein at least one of the plurality of hierarchically modulated data streams is configured to have a maximum range greater than at least one other hierarchically modulated data stream that provides an adequate C/N ratio for reception by a terminal; and

~~-a terminal operable to receive the data stream~~ from, ~~wherein the head-end equipment, classifies the content and in accordance with the classification places it into the corresponding hierarchically modulated data streams for simultaneously transmission which respectively have a different priority assigned to the content.~~

57. (Previously Presented) A system as claimed in claim 56, wherein the terminal provides a return channel connectable, in use, to the network, such that a request for a delivery of content may be originated by the terminal.

58. (Currently Amended) A system as claimed in claim 56, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion a selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

59. (Currently Amended) A method ~~of delivery of content to a terminal in a network having a plurality of hierarchically modulated simultaneously transmitted data streams, the method~~ comprising:

- receiving a request for the content;<sub>1</sub>
- passing said request to a network gateway;<sub>1</sub>
- ~~and~~ subsequently receiving content identified in the request in a form of at least one content element;<sub>1</sub>
- classifying the at least one content element;<sub>1</sub>
- assigning a priority to the at least one content element in accordance with the classification;<sub>1</sub> and
- assigning the content element to ~~the~~ at least one of a plurality of hierarchically modulated simultaneously transmitted data streams related to the priority assigned to the content wherein at least one of the plurality of hierarchically modulated data streams is configured to have a maximum range greater than at least one other hierarchically modulated data stream that provides an adequate C/N ratio for reception by a terminal.

60. (Currently Amended) A method as claimed in claim 59, further comprising:

- identifying a ~~wherein~~ a user identity is identified from the request;<sub>1</sub> and
- obtaining a corresponding user profile ~~is obtained~~ in accordance with which profile priority is assigned to the at least one content element.

61. (Previously Presented) A method as claimed in claim 59, wherein the request is received in a return channel established by a terminal of a public land mobile network via a public switched telephone network and the content element is delivered over a broadband broadcast network.

62. (Currently Amended) A method as claimed in claim 59, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criteria selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

63. (Currently Amended) A computer-readable medium ~~program~~ comprising computer-executable instructions that when code for execution is loaded on a computer, wherein the computer is operable in accordance with the code to carry out the method according to claim 59.

64. (Cancelled)

65. (Currently Amended) An device/apparatus as claimed in claim 47, further ~~including~~ comprising:

a connection to a look-up table accessible in use by the classifier, the table comprising a set of profiles, each of which includes at least one definition of a priority for a particular data

type wherein a selection by the classifier of a particular profile for identifying a data type of each element is determined by the network.

66. (Currently Amended) A method as claimed in claim 51, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

67. (Currently Amended) A method as claimed in claim 52, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

68. (Currently Amended) A method as claimed in claim 53, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

69. (Currently Amended) A method as claimed in claim 54, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

70. (Currently Amended) A method as claimed in claim 55, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

71. (Currently Amended) A method as claimed in claim ~~48~~51, wherein the creation of at least one of the profiles in the set of profiles is based upon a factor selected from the group consisting of: the terminal type, the level of service, and combinations thereof.~~the network is a terrestrial digital video broadcast network (DVB-T).~~

72. (Currently Amended) A method as claimed in claim 52, wherein the establishment of at least one of the profiles in the set of profiles is based upon a factor selected from the group consisting of: the terminal type, the level of service, and combinations thereof. ~~the network is a terrestrial digital video broadcast network (DVB-T).~~

73. (Currently Amended) A method as claimed in claim ~~60~~53, wherein ~~the~~ at least one of the profiles in the set of profiles is based upon a factor selected from the group consisting of: the terminal type, the level of service, and combinations thereof.~~network is a terrestrial digital video broadcast network (DVB-T).~~

74. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 50.~~

75. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 51.~~

76. (Currently Amended) AA— computer-readable medium with computer-readable instructions that when executed perform the~~A computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 52.~~

77. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 53.~~

78. (Currently Amended) A system as claimed in claim 57, wherein said hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a

predetermined criteria selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

79. (Previously Presented) A method as claimed in claim 59, wherein said request is received in a return channel established by a terminal of a public land mobile network via a public switched telephone network and the content element is delivered over a broadband broadcast network.

80. (Currently Amended) A method as claimed in claim 59, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

81. (Currently Amended) A method as claimed in claim 60, wherein the hierarchically modulated simultaneously transmitted data streams are ranked in accordance with a predetermined criterion selected from the group consisting of: quality of service, delivery speed, error rate, and combinations thereof.

82. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with the code to carry out the method according to claim 59.

83. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the ~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with the code to carry out the method according to claim 60.~~

84. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the ~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with the code to carry out the method according to claim 61.~~

85. (Previously Presented) A method as claimed in claim 54, wherein the network is a terrestrial digital video broadcast network (DVB-T).

86. (Previously Presented) A method as claimed in claim 62, wherein the network is a terrestrial digital video broadcast network (DVB-T).

87. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the ~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 71.~~

88. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the ~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 54.~~

89. (Currently Amended) A computer-readable medium with computer-readable instructions that when executed perform the ~~computer program comprising executable code for execution when loaded on a computer, wherein the computer is operable in accordance with said code to carry out the method according to claim 55.~~

90. – 100. (Cancelled)

101. (New) A wireless apparatus comprising:

a receiver configured to receive a plurality of hierarchically modulated simultaneously transmitted data streams which respectively have a different priority assigned to the contents therein corresponding to a particular class of the content wherein the terminal is configured to simultaneously receive the contents of any of the data streams having adequate C/N ratio at the location of the terminal.